

ESTTA Tracking number: **ESTTA279777**

Filing date: **04/22/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	COLOR IMAGE APPAREL, INC.		
Entity	Corporation	Citizenship	CALIFORNIA
Address	6670 FLOTILLA STREET COMMERCE, CA 90040 UNITED STATES		

Attorney information	Maha Sarah; Richard Sybert GORDON & REES LLP 101 West Broadway, Suite 1600 San Diego, CA 92101 UNITED STATES ipdocket@gordonrees.com, msarah@gordonrees.com, sgill@gordonrees.com Phone:619-696-6700
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Registration Subject to Cancellation

Registration No	2803696	Registration date	01/06/2004
Registrant	Blimegger-Benedetto, Bonnie, A. PO BOX 1482 Newton, PA 18940 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2002/07/01 First Use In Commerce: 2003/01/01 All goods and services in the class are cancelled, namely: Clothing, namely, shirts, pants, undergarments and baby clothes, namely, hats, body suits, t-shirts, pants and socks

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	BELLA CHIC Petition for Cancellation.pdf (4 pages)(157504 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Maha Sarah/
Name	Maha Sarah; Richard Sybert

Date	04/22/2009
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Registration No.:	2,803,696)
Registration Date:	January 6, 2004)
<hr/>)
COLOR IMAGE APPAREL, INC.,)
a California Corporation)
	Petitioner,)
v.)
)
Bonnie A. Blimegger-Benedetto, an Individual,)
	Registrant.)
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PETITION FOR CANCELLATION

Color Image Apparel, Inc. (“Petitioner”), believes that it is and will be damaged by the continued registration on the Principal Register of the mark BELLA CHIC, as shown in Registration No. 2,803,696 issued on January 6, 2004 to Bonnie A. Blimegger-Benedetto (“Registrant”), and hereby petitions to cancel the same pursuant to Section 24 of the Trademark Act, 15 U.S.C. § 1092.

As grounds therefore, Petitioner alleges as follows:

1. On January 6, 2004, Registrant obtained a registration on the Principal Register for the name BELLA CHIC for “Clothing, namely, shirts, pants, undergarments and baby clothes, namely, hats, body suits, t-shirts, pants and socks” in International Class 25.
2. “BELLA” is a term which has been in use by Petitioner as a trademark since at least as early as 2000.

3. Petitioner is the owner of U.S. Trademark Registration No. 2,668,441, for the mark BELLA and Design for “garments, namely cotton T-shirts and tops” in class 25, with a date of first use since at least January 1, 2000.

4. Petitioner is also the owner of U.S. Trademark Registration No. 2,895,709, for the mark BELLA for “men’s, women’s and children’s clothing, namely jeans, dresses, skirts, miniskirts, shorts, pants, slacks, trousers, suits, pantsuits, jackets, sweaters, cardigans, pullovers, coats, sport coats, blouses, vests, blazers, overalls, sweatshirts, sweatpants, sweatshorts, sweatsuits, shirts, polo shirts, knit shirts, sport shirts, tee-shirts, cotton shirts, tops, tank tops, halter tops, knit tops, woven tops, bodysuits, camisoles, pajamas, jumpsuits, swim suits, swimwear, socks, gloves; clothing accessories namely belts, scarves, hats, caps and visors; footwear, namely loafers, espadrilles, sandals, thongs, mules, pumps, athletic shoes, slippers, boots, and beach footwear” in class 25, with a date of first use since at least January 1, 2000.

5. Both of Petitioner’s federal registrations are valid and subsisting.

6. For a time period which pre-dates Registrant’s adoption and use of the BELLA CHIC mark, Petitioner has used its BELLA® marks in connection with apparel.

7. Petitioner is the owner of common law rights in and to its “BELLA” marks with respect to all goods on which it uses such marks in commerce.

8. Registrant is not authorized to use Petitioner’s “BELLA” marks in any form or format.

9. Registrant’s registration of BELLA CHIC damages Petitioner by falsely indicating to the purchasing public that BELLA CHIC is a deliberate variation of Petitioner’s BELLA® marks intended to indicate a product line extension or a spin off – all from the same source.

10. Registrant’s registration of the BELLA CHIC mark damages Petitioner because it so resembles Petitioner’s registered BELLA® marks as to be likely, when applied in connection with Registrant’s goods as stated in the subject registration, to cause confusion, mistake or deception within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

11. Registrant's registration of the mark BELLA CHIC damages Petitioner because it is likely to cause confusion, mistake or deception as to the origin, sponsorship, or approval of the Registrant's goods, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. 1125(a).

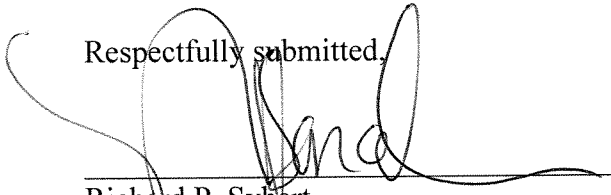
12. Moreover, cancellation is further warranted as, on information and belief, Registrant has not used the BELLA CHIC mark for at least the last three (3) consecutive years, and therefore, is presumed to have abandoned the mark.

13. On information and belief, Registrant has abandoned its use of the BELLA CHIC mark with the intent that such use not be resumed.

WHEREFORE, Petitioner would be damaged by the continued registration of the BELLA CHIC mark, and requests that Registration No. 2,803,696 be canceled.

DATE: April 22, 2009

Respectfully submitted,



Richard P. Sybert
Maha Sarah
Attorneys for Petitioner
COLOR IMAGE APPAREL, INC.

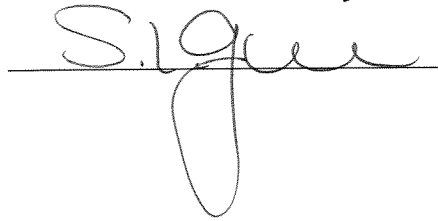
Certificate of Mailing by First Class U.S. Mail

I hereby certify that a copy of this PETITION FOR CANCELLATION is being served by First Class U.S. Mail to Addressee on April 22, 2009, as follows:

BONNIE A. BLIMEGGER-BENEDETTO
12201 Cornerstone Drive
Yardley, PA 19067
Phone Number: 215.891.9139
Fax Number: 215.891.9499

Date of Mailing: April 22, 2009
Printed Name: Sharee Gill

Signature:

A handwritten signature in cursive script, appearing to read "S. Gill", is written over a horizontal line. The signature is fluid and stylized, with a large loop at the end of the last name.